(4) SINGLE BENCH (1)

CF-102

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P. No. 7588 /2006 (S.B.)

(C)

PETITIONER	:	Vibhash Das
Judgement debtor/		S/o. Sukumar Das
Defendant before the		Aged about- 52 years,
Trial Judge		Occupation- Electrical Driver
		R/o.- Railway Quarter No.
		160/5 , Maldhakka Road,
		Raigarh Distt.- Raigarh (C.G.)

P.R. No. 7213/06 7214/06 (Main SB) Bilaspur
Presented on 8/12/06

VERSUS

RESPONDENTS	:	Nipendranath Samant
Plaintiff/		S/o. Vijaykrishna Samant
Decree Holder before		Aged about- 58 years,
the Trial Judge		Occupation- Business
		R/o. – Gaushalapara, Raigarh
		Distt.- Raigarh (C.G.)

APARNA MALVIYA CG-2073/06 08/12/06 Raigarh

WRIT PETITION UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF SUITABLE WRIT, WRITS, DIRECTION ETC. TO DO JUSTICE IN THE MATTER.

(45)

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक WP(C).758/06 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

16.1.2007:

Mr. Manoj Jaiswal counsel for the petitioner.

By this petition the petitioner has impugned the order dated 2.9.2006 of annexure P-1 passed by learned Additional District Judge, Raigarh in Execution Case No. 19-B/2004 whereby in a proceeding under Order 9 Rule 13 of the CPC for setting aside the ex parte decree, the application for staying the execution of the decree has been allowed on the condition that the decree holder deposits a sum of Rs. 36,000/- out of the decretal amount.

Learned counsel for the petitioner submits that the Court below ought to have stayed the execution of the impugned decree without any condition and in stead of this, warrant of arrest for committing the petitioner to the Civil Jail has been issued as the petitioner did not deposit the sum as directed.

From perusal of the documents annexed with the petition it is observed that the ex parte decree was passed against the petitioner. The petitioner moved an application for setting aside the ex parte decree. He also moved an application for staying the execution of the decree and the Court below stayed the execution of the decree on the condition that the judgment debtor deposits a sum of Rs. 36,000.

In these circumstances this Court is of the considered opinion that there is no jurisdictional error in the impugned order which calls for any interference from this Court under Article 227 of the Constitution of India. Thus the petition has no substance and therefore, the same is liable to be dismissed. It is accordingly dismissed.

Sd/-
Dhirendra Mishra
Judge

P.T.O.